

- No 11. which was libelled; yet the pursuer got *juramentum in litem* upon all that he had libelled, and having deponed upon plenishing and plough-graith, albeit it was *heterogeneum* from the oats that was proved, it was sustained; but his oath was taxed to a lesser quantity than he had sworn.

*Spottiswood, (EJECTION.) p. 94.*

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- No 12. 1667. January 3. ——— against BRAND.

A PERSON having, without due order of law, intromitted with a pack of goods left in his hands by his debtor as a security for the debt, the debtor was allowed his oath *in litem*, though it was pleaded for the creditor, that he had caused four of his neighbours inventory and price the ware.

*Fol. Dic. v. 2. p. 10. Stair.*

\* \* This case is No 8. p. 1817, *voce* BREVI MANU.

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- No 13. 1740. January 18. CAMPBELL against MAN.

THE practice has long been in spuilzies for the Lords to modify after the pursuer had given his oath *in litem*; but the method formerly was to ordain a condescendence of the damages to be given in before taking the oath *in litem*, which the Lords modified as they saw cause, and thereafter took the pursuer's oath *in litem*, lest they should have modified too much; for the oath might restrict, but could not extend the modification.

And in respect of the said former practice, such was the method taken in this case.

*Fol. Dic. v. 4. p. 21. Kilkerran, (OATH.) No 1. p. 359.*

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- No 14. 1795. December 4. A. against B.

IN a spuilzie the Lords allowed both an oath *in litem* and in supplement to ascertain the amount of the sum lost. See APPENDIX.

*Fol. Dic. v. 4. p. 21.*